

Exhibit 4

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

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BMG RIGHTS MANAGEMENT (US) LLC, :
et al., :
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Plaintiffs, :
 :
vs. : Case No. 1:14-cv-1611
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 :
 :
COX ENTERPRISES, INC., et al., :
Defendants. :
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VOLUME 10

TRIAL TRANSCRIPT

December 16, 2015

Before: Liam O'Grady, USDC Judge

And a Jury

1 favor of the plaintiff from a preponderance of the evidence in
2 the case in accordance with the other instructions.

3 If you find that Cox is liable for contributory
4 infringement, or if you find Cox is liable for vicarious
5 infringement, then you should consider the amount of money to
6 award BMG.

7 If you find that Cox is neither liable for
8 contributory or vicarious infringement, you should not consider
9 this issue.

10 BMG seeks an award of statutory damages under the
11 Copyright Act. Statutory damages are damages that are
12 established by Congress in the Copyright Act because actual
13 damages in copyright cases are often difficult to establish
14 with precision. The purposes are to compensate the copyright
15 owner, penalize the infringer, and deter future copyright law
16 violations.

17 The amount awarded must be between 750 and \$30,000
18 for each copyrighted work that you found to be infringed. If
19 BMG proves that Cox acted willfully in contributorily or
20 vicariously infringing BMG's copyrights, you may, but are not
21 required to, increase the statutory damage award to a sum as
22 high as \$150,000 per copyrighted work.

23 You should award as statutory damages an amount that
24 you find to be fair under the circumstances. In determining
25 the appropriate amount to award, you may consider the following

1 factors: The profits that Cox earned because of the
2 infringement; the expenses Cox saved because of the
3 infringement; the revenues that BMG lost because of the
4 infringement; the difficulty of proving BMG's damages; the
5 circumstances of the infringement; whether Cox acted willfully
6 or intentionally in contributorily or vicariously infringing
7 BMG's copyrights; deterrence of future infringement; and the
8 amount of harm, in the form of monetary loss, that BMG could
9 reasonably have avoided but for the failure to mitigate
10 damages, if you find that BMG did fail to mitigate.

11 You should award statutory damages whether or not
12 there is evidence of the actual damage suffered by BMG, and
13 your statutory damage award need not be based on the actual
14 damages suffered by BMG.

15 Cox's contributory or vicarious infringement is
16 considered willful if BMG proves by a preponderance of the
17 evidence that Cox had knowledge that its subscribers' actions
18 constituted infringement of BMG's copyrights, acted with
19 reckless disregard for the infringement of BMG's copyrights, or
20 was willfully blind to the infringement of BMG's copyrights.

21 In this case, Cox asserts the affirmative defense of
22 failure to mitigate damages. Cox must prove each element of
23 this defense by a preponderance of the evidence.

24 Plaintiff has a duty to use reasonable efforts to
25 mitigate damages. To "mitigate" means to avoid or reduce